

REMARKS

Claims 1-18 are pending. Claims 19-21 have been withdrawn from consideration. Claims 2 and 17 have been amended. By this response, reconsideration and allowance based on the above amendments and following remarks are respectfully requested.

Applicant appreciates the indication of claims 3-7, 13, 14 and 18 as containing allowable subject matter.

Applicant submits that the amendments to the specification and claims are merely to correct typographical errors and have been made to improve the readability of the application. Applicant submits that these amendments do not add any new matter.

The Examiner rejects claims 1-18 under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Examiner alleges that in claims 1, 10 and 15 the recitation of "the shape of the duct" is not readily understood. Also, the Examiner questions whether applicant intended "the shape" to mean "cross-sectional shape".

Applicants provide the following arguments in response.

Applicant submits that the term "shape of the duct" is readily understood to one of ordinary skill in the art. In the context of the present application, the terms "shape" and "cross-sectional shape" are distinct and have separate meanings. The cover plate is formed to the shape of the duct in a number of different applications or configurations. For example, in a first embodiment, a

cover that spans more than one side wall, i.e., shape 106 or shape 107 in figure 4. In another embodiment, the cover is formed to a duct with a specific cross-sectional shape i.e., duct 201 or 202 in figure 5. In a further embodiment, the cover is formed to a duct that has aberrations, deformities, or does not have a consistent cross-sectional shape.

The term "cross-sectional shape" in the context of the present application is directed to another embodiment of the invention as indicated above.

Applicant refers the Examiner to paragraph 29, lines 1-2, in the specification, which provides: "According to another aspect, the access panel assembly 1 is suitable for ducts 1 having various cross-sectional shapes and forms or access requirements." Therefore, the use of cross-sectional shape is unique to a specific embodiment. In the claims, "cross-sectional shape" is recited to provide a type of shape and is claimed as a further embodiment. Examples according to this embodiment are illustrated in Fig. 5 for the ducts 201 and 202. In these ducts, a cover is formed to the "cross-sectional shape" of the duct.

Thus, in view of the foregoing, it is submitted that the terms "shape" and "cross-sectional shape" as recited in the claims are definite, and the requirements of 35 U.S.C. §112, second paragraph, are satisfied. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

In the Official Action, the Examiner also rejected claims 1, 2, 8-12, and 15-17 under 35 U.S.C. §102(b) as being anticipated by Dugger (US Patent No. 4,913,127). This rejection is respectfully traversed.

Embodiments of the present invention provide a duct cover which has characteristics, such as being malleable or bendable, that allow it to form or conform to various duct shapes. This includes, for example, duct shapes that are square, circular, oval, abnormal, etc. Thus, the duct cover can be used universally across all types of ducts and be configured for a specific duct thereby ensuring a proper seal.

The Examiner alleges that the access seal 10 of Dugger provides the claimed duct cover. Applicant respectfully disagrees. The access cover of Dugger is merely a cover member which covers an access opening in the duct. The access cover is designed so that it can be fitted for flat surfaces. This is illustrated in Figures 1 and 2 of Dugger. This teaching of Dugger is contrary to the present invention in which the duct cover is formed or conforms to the duct shape.

Thus, Dugger fails to teach the recitation of a "cover member being formed to the shape of the duct", as recited in claims 1 and 10. Also, Dugger fails to teach the recitation of a "cover member comprising a material modifiable in the field to conform to the shape of the duct", as recited in claim 15. Therefore each and every feature of the claimed invention is not taught by Dugger as required in a rejection under 35 U.S.C. 102. Thus, the subject

matter define by these claims is not anticipated. Since the remaining claims are dependent claims, it is submitted that these claims are also not anticipated by Dugger. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

### CONCLUSION

In view of the foregoing, favorable reconsideration and allowance of the subject application is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings (Reg. No. 48,917) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.


Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee of \$465.00 is attached hereto.

Appl. No. 09/874,327

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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MKM/CJB:cb  
2339-0111P

Attachment(s)

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